

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

KEVIN SHAWN PETTIS §
VS. § CIVIL ACTION NO. 1:05cv657
STEVE MORRIS §

MEMORANDUM OPINION REGARDING TRANSFER

Petitioner Kevin Shawn Pettis, an inmate confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brings this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

On May 21, 1997, in the District Court of Lea County, New Mexico, petitioner was found guilty of both counts of a two-count indictment stemming from a shooting at the "X-Club" which petitioner owned in Hobbs, New Mexico.

Petitioner appealed his conviction and sentence. On December 11, 1997, the judgment of the district court was partially reversed and remanded for retrial by the Court of

Appeals for the State of New Mexico. Petitioner claims that following the reversal, counsel entered a stipulation to dismiss his direct appeal without petitioner's consent. Petitioner was resentenced on July 24, 2000.

On January 21, 2001, petitioner filed a petition for writ of Coram Nobis. The petition was denied by the district court.

On September 14, 2004, the Supreme Court of the State of New Mexico denied petitioner's writ of certiorari.

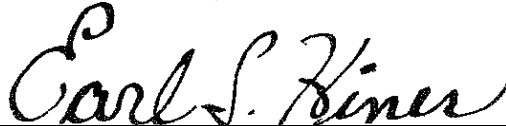
Petitioner brings the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, asserting that he is innocent of the convictions and was denied effective assistance of counsel. Petitioner requests a new trial.

In this action, petitioner challenges the propriety of his state court conviction received in Lea County, New Mexico. As petitioner is not challenging his current federal conviction, but is instead challenging a state court conviction from New Mexico, the court is of the opinion this petition should be transferred to a forum where a New Mexico state inmate would pursue a petition for writ of habeas corpus. Such a forum is also where all records and witnesses concerning petitioner's state conviction would be located.

Pursuant to 28 U.S.C. § 111, New Mexico constitutes one judicial district. As a result, this petition will be transferred to the United States District Court for the District

of New Mexico. A transfer order shall be entered in accordance with this Memorandum Opinion.

SIGNED this 31 day of January, 2006.

A handwritten signature in cursive script, reading "Earl S. Hines", written over a horizontal line.

EARL S. HINES
UNITED STATES MAGISTRATE JUDGE